

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

**Plaintiff,**

**v.**

**Case No. 07-CR-212**

MICHAEL E. NAGEL,

**Defendant.**

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**RECOMMENDATION**

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On April 6, 2018, the court entered an order outlining the court's intended recommendation regarding the resolution of Michael Nagel's motion for the return of property. (ECF No. 145.) The court's order gave Nagel the opportunity to request an evidentiary hearing and stated: "Any request for a hearing must be received by the court no later than **April 20, 2018**. If a request for a hearing is not received on or before that date, the court will recommend that Judge Stadtmueller resolve the motion as set forth above." (ECF No. 145 at 9 (emphasis in original).) A docket annotation indicates that Nagel called the Clerk's Office on April 18, 2018, and stated that he will mail his response by April 19, 2018. However, no request for an evidentiary hearing was received by the court by the April 20, 2018 deadline nor has one been received as of the

date of the filing of this order. Therefore, the court finds that Nagel has waived any right he may have had to an evidentiary hearing regarding his motion.

**Therefore, the court now recommends:**

The United States Probation Office should return to Nagel the “black flip phone LG ... w/ charger” identified as item A-1 on ECF No. 143-1 at 1-2, after any pornography on that phone is deleted.

The items identified under item C-3 should also be returned to Nagel, with the exception of the documents contained in the red file folder.

Within 30 days of Judge Stadtmueller resolving any objection to this recommendation, this property should be made available to Nagel for pickup from the United States Probation Office in the Northern District of Illinois. If Nagel does not pick up this property within 60 days of Judge Stadtmueller resolving any objection to this recommendation, the Probation Office may dispose of this property.

All other property, identified as C-1, C-2, C-4, D-1, D-2, C-5, C-6, C-7, C-8 and C-9, should be retained by the United States Probation Office until the office determines that Nagel’s possession of it is no longer inconsistent with the requirement that Nagel participate in sex offender treatment or with any other condition of his supervised release, or until Nagel approves of its destruction or until he completes his term of supervised release. Nagel shall retrieve the property from the United States Probation Office in the Northern District of Illinois within 30 days of completing his term of

supervised release. If Nagel fails to retrieve the property by that deadline the United States Probation Office may dispose of the property without further notice to Nagel or order of the court.

Your attention is directed to 28 U.S.C. § 636(b)(1)(B) and (C) and Fed. R. Civ. P. 72(b)(2) whereby written objections to any recommendation herein or part thereof may be filed within fourteen days of service of this recommendation. Objections are to be filed in accordance with the Eastern District of Wisconsin's electronic case filing procedures. Failure to file a timely objection with the district court shall result in a waiver of your right to appeal.

Dated at Milwaukee, Wisconsin this 26th day of April, 2018.

  
WILLIAM E. DUFFIN  
U.S. Magistrate Judge